The Ombudsman's Review
June 2002

Year 2001/02 is a milestone in our history. It has been an eventful period, opening a new phase in the development of my Office :

- The Ombudsman (Amendment) Ordinance 2001, which came into operation on 19 December 2001, empowers me to establish my own administrative systems and processes, procedures and practices;

- Recruitment of contract staff is well underway, to replace all career civil servants hitherto on secondment from Government;

- Centrally located permanent accommodation has been acquired, at reasonable cost, to make for long-term economies;

- The monthly average of enquiries and complaints received, also complaints concluded and cases investigated have topped those of the last four years; and

- The appointment of Advisers and the alternative dispute resolution methods in use since the mid-1990's for processing complaints have gained statutory status.

While my mission should be mainly investigation, whether acting on complaints or on my own initiative, my role is steadily becoming rather more varied.

By far the most frequent demands on my Office are enquiries and requests for the provision of public services. In reality, this has meant that increasingly we have to depart from the classical Ombudsman mode of being concerned only with how Government provides services. Given the diverse nature of the complaints we receive, a single pattern of response is no longer adequate. Often, my Office has to advise on where to get what services. In this context, I see the role of The Ombudsman evolving, in some ways, as counsellor and social worker as well as complaint adjudicator.

We have also noticed that many complaints are lodged by citizens intent on getting their pound of flesh from public servants and not really to seek protection from maladministration or malpractice by public institutions. Regrettably, some complainants have their own agenda and "use" my Office to press for their own desired outcome.

On the other hand, we find some arms of Government fuelling this phenomenon. Quite a few cases coming to us evidence an unhealthy readiness, among some departments, to adopt a compartmental mentality. The complaints would not have arisen if the departments concerned had worked together in co-operative partnership with better co-ordination. In brief, they need only to have taken a further step forward to facilitate their clientele. Put bluntly, I see theirs as "a minimalistic approach" to work : this is an attitude most unworthy of public officers and certainly not a service culture to be nurtured.

In recent years, there has been growing demand for accountability on the part of Government and public bodies. I have searched for some guidance to this important principle of public administration. I have found what I regard as the best answer in the 1975 Annual Report of the Independent Commission Against Corruption. The then Commissioner provided a good working definition :

> "Accountability is a rather imprecise term, but the kind of thing we have in mind is the attitude adopted by the New York Police Department, although the concept can readily be applied to public servants generally. Some time ago, the Commissioner of the New York Police said, `... when I speak of accountability, I do not mean that a commander is automatically and personally responsible, like an insurer, for every instance of misconduct or inefficiency that takes place within his command. That standard would be unrealistic and unfair .... Superior officers would be accountable only when the act in question was so serious, repeated, or widespread that he knew, or by reasonable diligence should have known, of it or that the conditions would not have developed or persisted if he had demonstrated a level of leadership and supervision commensurate with his assignment'."
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> (ICAC Annual Report 1975 - paragraph 1.17)

I commend this to public officers as a ready reckoner. In my view, this is an attitude that can, and should, permeate through all levels of Government and not just at particular ranks.

In conclusion, I acknowledge with sincerest appreciation the Justices of the Peace and other Advisers who have responded to my request for assistance. I am also grateful for the support from so many in our community; some have even taken the time and the trouble to write to me with thanks for the efforts of my Office in addressing their grievances.

To them and to our community at large, my colleagues and I give our earnest assurance that we are committed to serving without fear or favour. Impartiality and justice are cardinal considerations in our quest for open and accountable administration.